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December 17, 2007

Hon. Loretta A. Preska  
United States District Court  
Southern District of New York  
500 Pearl Street-Room 1320  
New York, NY 10007

BY FAX: (212)805-7941

Re: Francis J. Harvey, Jr. and Jean Wilhelm v. 320 Owners Corporation  
United States District Court, Southern District of New York  
Docket No. 07-Civ-6763 (LAP)

Dear Judge Preska:

I request that the above-referenced matter be adjourned to a date convenient to the Court in mid-January 2008. It is currently on your calendar on Wednesday, December 19, 2007, for additional argument on Plaintiff's Motion for a Preliminary Injunction and Defendants' Cross Motion to Dismiss.

I have spoken to opposing counsel, who joins in this request.

As I had advised your law clerk when I spoke to him last week, the parallel case between these same parties that is being litigated in the Supreme Court of the State of New York, New York County (320 Owners Corp. v. Harvey and Wilhelm, Index No 110470-2007), has required intense briefing during the past couple of weeks because argument on 320 Owners Corp.'s Motion for Summary Judgment is now pending. It is scheduled before Justice Marcy Friedman in Part 57 on Thursday, December 20, 2007.

It had been necessary for me, as a solo practitioner, to request multiple extensions of the deadline for filing my responsive brief in the state court, which resulted in an adjournment of the argument date from December 13, to December 20<sup>th</sup>.

The level of effort required to complete the brief I had due in state court made it virtually impossible for me to meet the briefing schedule that would have allowed argument on the motions as now scheduled before Your Honor.

Also, opposing counsel and I agreed that having adjourned the argument in the state

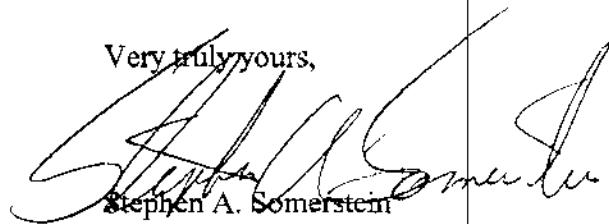
Hon. Loretta A. Preska  
December 17, 2007  
Page 2 of 2

court case so that it would now take place after the argument in this case might provide an unfair advantage to my clients. We agreed, therefore, that the order of argument as it existed before adjournment of the state case should be preserved by asking for a January date in this case.

Finally, I also advised your law clerk that the parties recently have had settlement discussions that seem to offer a hopeful prospect of a global resolution of this matter. Last week I put a proposal in writing to counsel for 320 Owners Corp., who has informed me he will be discussing it with his client this week.

For all the above stated reasons I ask that the adjournment we seek be granted.

Very truly yours,



Stephen A. Somerstein

cc: Joseph Colbert  
Attorney for Defendants

Oral argument shall be on January 22,  
2008 at 1:00 pm.

Counsel shall inform the Court by  
letter no later than December 27 of  
the status of the action.

SO ORDERED



LORETTA A. PRESKA  
UNITED STATES DISTRICT JUDGE

December 17, 2007